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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 JONATHAN WAYNE BOTTEN , et al.

11 Plaintiff(s),

12 v.

13 STATE OF CALIFORNIA , et al.

14
15 Defendant(s).
16
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CASE NO:

5:23-cv-00257-JGB-SHK

ORDER SETTING SCHEDULING
CONFERENCE

Date: January 8, 2024

Time: 11:00 AM

Location: Courtroom 1

3470 Twelfth Street

Riverside, California 92501

18 **READ THIS ORDER CAREFULLY. IT DIFFERS IN**
19 **SOME RESPECTS FROM THE LOCAL RULES.**

20 This case has been assigned to Judge Jesus G. Bernal. This matter is set
21 for a scheduling conference on the above date. If plaintiff has not already served
22 the operative complaint on all defendants, plaintiff *promptly* shall do so and shall
23 file proofs of service within three days thereafter. Defendants also timely shall
24 serve and file their responsive pleadings and file proofs of service within three
25 days thereafter. At the scheduling conference, the Court will set a date by which
26 motions to amend the pleadings or add parties must be heard.

27 The conference will be held pursuant to Rule 16(b) of the Federal Rules
28 of Civil Procedure. The parties are reminded of their obligations under Rule 26(f)

1 to confer on a discovery plan not later than 21 days before the scheduling
 2 conference and to e-file a "Joint Rule 26(f) Report" with the Court not later than
 3 14 days before the conference. Mandatory paper chambers copies of the Joint
 4 Rule 26(f) Report must be delivered to Judge Bernal's drop box outside the door
 5 of Courtroom 1 by 5:00 p.m. on the first court day following the e-filing.

6 The Court encourages counsel to begin to conduct discovery actively *before*
 7 the Scheduling Conference. At the very least, the parties shall comply fully with
 8 the letter and spirit of Rule 26(a) and thereby obtain and produce most of what
 9 would be produced in the early stage of discovery, because at the Scheduling
 10 Conference the Court will impose strict deadlines to complete discovery.

11 This Court does not exempt parties appearing *in propria persona* from
 12 compliance with any of the Local Rules, including Local Rule 16. "Counsel," as
 13 used in this order, includes parties appearing *in propria persona*.
 14

15 **1. Joint Rule 26(f) Report**

16 The Joint Rule 26(f) Report, which shall be filed **not later than 14 days**
 17 before the scheduling conference, shall be drafted by plaintiff (unless the parties
 18 agree otherwise), but shall be submitted and signed jointly. "Jointly" contemplates
 19 a single report, regardless of how many separately-represented parties there are.
 20 The Joint Rule 26(f) Report shall specify the date of the scheduling conference
 21 on the caption page. It shall report on all matters described below, which include
 22 those required to be discussed by Rule 26(f) and L.R. 26:

- 23 a. Statement of the Case: A short synopsis (not to exceed two pages)
 24 of the main claims, counterclaims and affirmative defenses.
- 25 b. Subject Matter Jurisdiction: A statement of the **specific** basis of
 26 federal jurisdiction, including supplemental jurisdiction.
- 27 c. Legal Issues: A brief description of the **key legal issues**, including
 28 any unusual substantive, procedural or evidentiary issues.

- d. Parties, Evidence, etc.: A list of parties, witnesses and key documents on the main issues in the case. For conflict purposes, corporate parties must identify all subsidiaries, parents and affiliates.
- e. Damages: The realistic range of provable damages.
- f. Insurance: Whether there is insurance coverage, the extent of of coverage and whether there is a reservation of rights.
- g. Motions: A statement of the likelihood of motions seeking to add other parties or claims, file amended pleadings, transfer venue, etc.
- h. Manual for Complex Litigation: Whether all or part of the procedures of the Manual for Complex Litigation should be utilized.
- i. Status of Discovery: A discussion of the present state of discovery, including a summary of completed discovery.
- j. Discovery Plan: A detailed discovery plan, as contemplated by Rule 26(f). State what, if any, changes in the disclosures under Rule 26(a) should be made, the subjects on which discovery may be needed and whether discovery should be conducted in phases or otherwise be limited, whether applicable limitations should be changed or other limitations imposed, and whether the Court should enter other orders. A statement that discovery will be conducted as to all claims and defenses, or other vague description, is not acceptable.
- k. Discovery Cut-off: A proposed discovery cut-off date. This means the final day for **completion of discovery**, including resolution of all discovery motions.
- l. Expert Discovery: Proposed dates for expert witness disclosures (initial and rebuttal) and expert discovery cut-off under Rule 26(a) (2).
- m. Dispositive Motions: A description of the issues or claims that any any party believes may be determined by motion for summary judgment or motion *in limine*.

- 1 n. Settlement/Alternative Dispute Resolution (ADR): A statement of
2 what settlement discussions or written communications have occurred
3 **(excluding any statement of the terms discussed)**. If counsel have
4 received a Notice to Parties of Court–Directed ADR Program (Form
5 ADR–08), the case presumptively will be referred to the Court
6 Mediation Panel or private mediation (at the parties' expense). If
7 the parties jointly desire a settlement conference with the assigned
8 magistrate judge, they should so indicate in their report. No case
9 will proceed to trial unless all parties, including an officer (with full
10 authority to settle the case) of all corporate parties, have appeared
11 at an ADR proceeding.
- 12 o. Trial Estimate: A realistic estimate of the time required for trial and
13 whether trial will be by jury or by court. Each side should specify
14 (by number, not by name) how many witnesses it contemplates
15 calling.
- 16 p. Trial Counsel: The name(s) of the attorney(s) who will try the case.
- 17 q. Independent Expert or Master: Whether this is a case where the
18 Court should consider appointing a master pursuant to Rule 53 or
19 an independent scientific expert.
- 20 r. Timetable: **Complete the Schedule of Pretrial and Trial Dates**
21 **form attached as Exhibit A to this Order and attach it to the**
22 **Joint Rule 26(f) Report**. Each side should write in the month,
23 day, and year it requests for each event. At the conference, the
24 Court will review this form with counsel. Each entry proposing
25 Court dates shall fall on a Monday, except the trial date, which
26 is a Tuesday. Counsel should insure that requested dates do
27 not fall on a holiday. In appropriate cases the Court will order
28 different dates after it hears from counsel. The discovery cut–off

1 date is the last day by which all depositions must be completed,
 2 responses to previously-served written discovery must be provided,
 3 and motions concerning discovery disputes must be heard. The
 4 cut-off date for motions is the last date on which motions may be
 5 **heard**, not filed.

- 6 s. **Other Issues:** A statement of any other issues affecting the
 7 status or management of the case (e.g., unusually complicated
 8 technical or technological issues, disputes over protective orders,
 9 extraordinarily voluminous document production, non-English
 10 speaking witnesses, ADA-related issues, discovery in foreign
 11 jurisdictions, etc.) and any proposals concerning severance,
 12 bifurcation, or other ordering of proof.

13 The Joint Rule 26(f) Report should set forth the above-described
 14 information under section headings corresponding to those in this Order.

15 16 **2. Scheduling Conference**

17 Scheduling conferences will be held in Courtroom 1, 3470 Twelfth Street,
 18 Riverside, California. Counsel shall comply with the following:

- 19 a. **Participation:** **Lead trial counsel for all parties must be present.**

20 Counsel must be prepared to discuss the substantive issues in the
 21 case and authorized to address scheduling with the Court and
 22 opposing counsel.

- 23 b. **Continuances:** A continuance of the scheduling conference will be
 24 granted only for good cause.

25 **3. Notice to be Provided by Counsel**

26 Plaintiff's counsel or, if plaintiff is appearing pro se, defendant's counsel,
 27 shall provide this Order to any parties who first appear after the date of this Order
 28 and to parties who are known to exist but have not yet entered appearances.

1 **4. Court's Website**

2 Copies of this and all other orders of this Court that may become
3 applicable to this case are available on the Central District of California website,
4 at www.cacd.uscourts.gov, under "Judge's Procedures and Schedules." Copies
5 of the Local Rules are available on the website.¹

6 **IT IS SO ORDERED.**

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8 Dated: October 31, 2023



9 Jesus G. Bernal
10 United States District Judge

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27 ¹ They may also be purchased from one of the following:

28 Los Angeles Daily Journal
 915 East First Street
 Los Angeles, CA 90012

 West Publishing Company
 50 West Kellogg Blvd.
 St. Paul, MN 55164-9979

 Metropolitan News
 210 South Spring Street
 Los Angeles, CA 90012

JUDGE JESUS B. BERNAL
EXHIBIT A: SCHEDULE OF PRETRIAL AND TRIAL DATES WORKSHEET

Case No.			
Case Name			
Matter	Plaintiff(s)' Request mo/day/year	Defendant(s)' Request mo/day/year	Court's Order
<input type="checkbox"/> Jury Trial or <input type="checkbox"/> Court Trial (Tuesday at 9:00 a.m.) Length: _____ Days			
Final Pretrial Conference [L.R. 16] and Hearing on Motions <i>In Limine</i> (Monday – <u>two (2)</u> weeks before trial date)			
Last Date to Conduct Settlement Conference			
Last Date to Hear Non–discovery Motions (Monday at 9:00 a.m.)			
All Discovery Cut–Off (including hearing all discovery motions)			
Expert Disclosure (Rebuttal)			
Expert Disclosure (Initial)			
Last Date to Amend Pleadings or Add Parties			

ADR [L.R. 16–15] Settlement Choice:

- ☐ Attorney Settlement Officer Panel
- ☐ Private Mediation
- ☐ Magistrate Judge